



## POLICY & PROCEDURES

No. 297

<b>HAMPTON SHERIFF'S OFFICE</b>  <b>Prison Rape Elimination Act</b>	Effective Date: April 18, 2005
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	Approved By: <i>Karen Bowden</i>

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### POLICY

It is the policy of the Hampton Sheriff's Office to develop an institutional plan in order to prevent and report any incident of sexual abuse/assault, sexual harassment within the facilities. The Hampton Sheriff's Office has a zero tolerance policy towards all forms of sexual abuse/assault or harassment, or sexual misconduct by staff, contractors, or volunteers with inmates or between inmates as defined in this policy and procedure. The Sheriff's Office will strictly enforce all federal and state laws regarding inmate sexual misconduct, threats of sexual assault or intimidation by providing clear definitions of prohibited conduct; establishing uniform methods for the prompt reporting and investigation of allegations of sex-related offenses or threats, identification of predators, protection of victims and prescribing sanctions for substantiated sexual offenses as well as false allegations.

## PURPOSE

To ensure HSO employees, contractors, and volunteers understand the procedures outlined for the prevention, detection, and response plan for incidents of sexual misconduct involving inmates regardless of gender, or sexual orientation. This policy will provide guidelines for proper and immediate reporting of such incidents and ensure the appropriate safeguard for victims.

## DEFINITIONS

**Agency-** The unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority

**Agency head-** the principal official of an agency

**Community Confinement Facility-** a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pretrial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility approved programs during nonresidential hours

**Contractor-** a person who provides services on a recurring basis pursuant to a contractual agreement with the agency

**Detainee-** any person detained in a lockup, regardless of adjudication status

**Direct staff supervision-** that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate

**Employee-** is a Deputy Sheriff who is appointed by the Sheriff, a contract worker providing services for the Sheriff's Office, or a civilian appointed by the Sheriff, who works directly for the agency or facility



***Exigent circumstances-*** any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility

***Facility-*** a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals

***Full compliance-*** compliance with all material requirements of each standard, except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance

***Gender nonconforming-*** person whose appearance or manner does not conform to traditional societal gender expectations

***Inmate-*** any person incarcerated or detained in a prison or jail

***Intersex-*** a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development

***Jail-*** a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility

***Juvenile-*** any person under the age of 18, unless under adult court supervision and confined to or detained in a prison or jail

***Lockup-*** a facility that contains holding cells, cell blocks, or other secure enclosures which are:

- a. under the control of a law enforcement, court, or custodial officer
- b. primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court jail, prison, or other agency

**Medical Practitioner-** a health professional, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice; a qualified medical practitioner refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims

**Pat-down search-** a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to detect contraband or any concealed weapons

**PREA Coordinator-** an upper-level, agency-wide person with sufficient time and authority to develop, implement, and oversee agency efforts to comply with PREA standards within the facility

**Security staff-** employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility

**Staff-** employees

**Strip search-** a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitals

**Transgender-** a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth

**Substantiated allegation-** an allegation that was investigated and determined to have occurred

**Unfounded allegation-** an allegation that was investigated and determined not to have occurred

**Unsubstantiated allegation-** an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred

**Volunteer-** an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency

**Youthful inmate-** any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail



**Definitions related to sexual abuse:**

***abuse*** – the improper use or treatment of an individual that directly or indirectly affects an individual negatively; any intentional act that causes physical, mental, or emotional injury to an individual

***carnal knowledge***- the acts of sexual intercourse, anal intercourse, and animate and inanimate object sexual penetration

***sexual abuse***- as defined by the Code of Virginia § 18.2-67.10 means an act committed with the intent to sexually molest, arouse or gratify a person, where:

- a. the accused intentionally touches the complaining witness's intimate parts or material directly covering such intimate parts;
- b. the accused forces the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts; or
- c. the accused forces another person to touch the complaining witness's intimate parts or material directly covering such intimate parts

***sexual assault or rape***- for purposes of this policy, sexual assault and rape includes the carnal knowledge, oral sodomy, sexual assault with an object or sexual fondling of an inmate when such acts(s) is:

- a. achieved forcibly or against the victim's will;
- b. perpetrated on an inmate who is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity;
- c. achieved through the exploitation of fear or threat of physical violence or bodily injury;
- d. achieved with or without consent of the victim when the perpetrator is an employee of the Sheriff's Office or a vendor, contractor, volunteer, or other person exerting authority over an inmate

Sexual Assault by a staff member, contractor, or volunteer includes:

- a. Sexual touching by a staff member, contractor, or volunteer which includes:
  1. contact between the penis and the vulva or the penis and the anus, including penetration, however slight
  2. contact between the mouth and the penis, vulva, or anus, penetration of the anal of genital opening of another person, however slight, by a hand, finger, object, or other instrument
  3. any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with the intent to abuse, arouse, or gratify sexual desire
    - a. any attempted, threatened, or requested sexual touching by a staff member, contractor, or volunteer
    - b. indecent exposure by a staff member, contractor, or volunteer which includes:
4. display by a staff member, contractor, or volunteer of their uncovered genitalia, buttocks, or breast in the presence of an inmate
5. voyeurism by a staff member, contractor, or volunteer that involves an invasion of an inmate's privacy by staff for reason unrelated to official duties such as:
  - a. peering at an inmate who is using the toilet in their cell to perform bodily functions
  - b. requiring an inmate to expose their buttocks, genitals or breast or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions, regardless of what the staff member does with the images afterwards

**sexual harassment** – repeated and unwelcome sexual advances, request for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate toward another and repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments regarding body or clothing, or obscene language or gestures



**sexual misconduct**- taking part in any of the above mention behaviors to include (kissing, fondling or other inappropriate touching of another) where all parties are able to and offer consent; masturbation in the view or presence of another

**Voyeurism** (*by a staff member, contractor, or volunteer*) - an invasion of privacy of an offender by staff for reason unrelated to official duties, such as peering at an offender who is using a toilet in his or her cell to perform bodily functions; requiring an offender to expose

his or her buttocks, genitals, or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions

**FTO**- Field Training Officer

A. PREA Coordinator Responsibilities

1. Coordinate the mission, Policy and Procedures, and implementation of all PREA standards through the PREA compliance managers
2. Review and analysis to assure PREA Compliance
3. Develop compliance files and maintain documentation
4. Data Collection: set up a system for data submission on a regular basis- maintain the data, keep it up to date and complete annual reports
5. Regularly assess policies, procedures, allegations and other issues related to compliance with PREA
6. Review of investigations into allegation of sexual abuse and sexual harassment of inmates
7. Ensure the medical and mental health treatment of the victim
8. Schedule Incident Reviews within 30 days of the conclusion of the investigation
9. Track each investigation to its conclusion
10. Review the location of incident, monitoring technology, staffing levels

11. After review, place the findings and recommendations in a written report to the Undersheriff
12. Upon request, provide data from the previous calendar year to the Department of Justice no later than June 30<sup>th</sup>
13. Make statistics available in annual report and available to the public by website
14. Ensure appropriate timely and documented training to inmates, staff, volunteers, medical/mental health personnel, and investigators

**B. Prevention 4-ALDF-2A-29**

1. The Hampton Sheriff's Office facilities are designed for the management of inmates through indirect/direct supervision 24/7. Movements outside of the units are monitored by roving staff and cameras.
2. The Hampton Correctional Facility which is linear designed allowing the staff to observe inmates through bars and a window in the door, while providing some privacy to the inmates in the room. Windows are not permitted to be covered.
3. Each unit provides enough light for staff to be able to see any activity during evening hours.
4. Shower curtains are provided for privacy. The shower curtain is clear at the bottom so the feet to mid-calf portion of the leg of the person taking the shower may be viewed.
5. Electrical rooms and plumbing chases are only accessible by floor facility deputies, floor supervisor(s), and maintenance personnel.
6. Inmates receive information on how to possibly avoid a sexual assault via the PREA Booking Form, inmate classroom training, video, and during orientation.
7. All inmates are screened at Intake for sexual victimization or abuser tendencies.
8. All staff, volunteers, and contractors who come in contact with inmates are trained on the standards of PREA and their role, duties and responsibilities in prevention, detection and response.



9. Employees, contract workers, interns and volunteers are prohibited from having one on one contact with an inmate in a closed area (i.e. office, classroom, closet, storage area and/or any other closed space). If one on one contact is necessary by an employee of the Hampton Sheriff's Office, a contract worker, intern or volunteer, another deputy, employee of HSO, a contract worker, intern or volunteer must be present. **4-ALDF-4D-22-5**
10. There may be instances in which an employee, volunteer or contractor will have one on one contact with an inmate, such as when the inmate is performing work detail (i.e. restroom, cleaning Administrative areas at night, etc.), during strip searches, interviews, etc. When circumstances as such occur, if possible, the doors are to remain opened and the deputy, volunteer or contractor must notify the Control operator prior to entering the space with the inmate to perform the task. The Control operator must document the time the deputy, volunteer or contractor and inmate goes into the closed area, in which they are one on one and when they exit, on the Shift Watch log. In addition, the Control operator must place the camera on the area when a camera is present.
11. The Prison Rape Elimination Act (PREA) of 2003 is aimed at reporting problems of sexual assault of persons in custody of correctional facilities and improving the detection and prevention of sexual assaults by prisoners. Although this Federal law is directed towards prison, it is also geared for intakes, jails, detentions, military facilities, immigration facilities and other facilities where inmates and prisoners are housed. **4-ALDF-2A-29**
12. The Hampton Sheriff's Office strives to provide a safe environment where inmates are free from such assault and sexual misconduct, and make every effort to detect, prevent, reduce, and punish sexual abuse, assault, harassment, and misconduct.
13. The Hampton Sheriff's Office PREA Coordinator will oversee the Sheriff's Office's efforts to comply with PREA standards.
14. Each facility shall designate a PREA Compliance Manager with sufficient time and authority to coordinate the facility's effort to comply with the PREA standards.
15. Each shift shall designate a PREA facility manager with sufficient training to assist the PREA Compliance Manager in coordinating the facility's efforts to comply with the PREA standards.

16. The Hampton Sheriff's Office Director of Administration will implement a staffing plan and make all efforts to comply on a regular basis with the staffing plan.
17. Any deviation from the staffing plan will be in writing and forwarded to the Undersheriff. Each facility in consultation with the PREA Coordinator shall assess, determine, and document any adjustments needed whenever necessary, but no less frequently than once each year for each facility.
18. The Hampton Sheriff's Office occasionally houses Youthful Offenders only when the Youthful Offender has been adjudicated as an adult. The Youthful Offender will be booked at the Adult Intake and housed at the Hampton City Jail until transferred to the Hampton Roads Regional Jail.
19. As part of the classification process, Youthful Offenders will not be placed in any housing unit within sight, sound, or physical contact with any adult inmate through the use of a shared dayroom or other common space, shower area, or sleeping area. Youthful Offenders are allowed daily exercise and access to programs and work opportunities to the extent possible and absent of exigent circumstance.
20. Staff will announce "Male on the Floor" or "Female on the Floor" anytime the opposite gender enters an inmate housing unit where detainee/inmate is likely to be showering, performing bodily functions, or changing clothing.

#### B. Detection

1. Security staff provides around the clock supervision of housing units at a minimum of twice per hour at random intervals. Security staff also provides supervision of programs while in session.
2. Supervisors are to conduct unannounced supervisor rounds at all facilities on a daily basis to identify and deter staff sexual abuse and sexual harassment. Staff is prohibited from alerting other staff members when the Supervisor is conducting their supervisor rounds. Any violations will result in disciplinary actions. The Director and Commander of Corrections also conduct and documents unannounced rounds in each facility.
3. Virginia Code Section §19.2-59.1 defines authority for strip and body cavity searches.



4. With the approval of the Director of Corrections and Medical Director, manual or instrument searches of inmate body cavities are to be conducted only when there is reasonable belief that the inmate is carrying contraband or other prohibited material. The inmate is to be transported to Hampton Sentara Hospital where such a search is to be conducted in private. The *Hampton Sheriff's Office Emergency Room Transfer* Form is to be completed and taken to the examining physician by the transportation officer.
  - a. No person in custodial arrest for a traffic violation, Class 3 or 4 misdemeanor, or violation of a city, county, or town ordinance, which is punishable by no more than 30 days in jail will be strip searched unless there is reasonable cause to believe the individual is concealing a weapon or the person is being assigned to general population or segregation in the jail.
  - b. All strip searches are to be conducted by an officer of the same sex as the person being searched, in private and out of view from anyone not participating in the search.
  - c. The Hampton Sheriff's Office deputies will not conduct cross-gender strip searches or cross-gender visual body cavity searches (anal or genital opening), except in exigent circumstances or when performed by medical practitioners.
  - d. When a body cavity search is conducted, an *Incident Report* must be submitted to the Director of Corrections describing the reason the search was requested and all details describing the search conducted at the hospital by end of shift.
5. If a strip search is conducted on anyone other than a person returning from outside of the facility or a person's initial placement in general population or segregation, an *Incident Report* must be completed by the end of shift describing the reason for the search.
6. Strip searches must be conducted on all inmates returning to the correctional facility (i.e., courts, another jurisdiction, medical, work release, attorney visits, etc.).
7. All cross-gender strip searches and cross-gender visual body cavity searches are prohibited. Cross-gender pat-down searches of female inmates when conducted will be documented.

8. Inmates will be allowed to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is during required security rounds.
9. Staff will not search or physically examine a transgender **or** intersex inmate for the sole purpose of determining the inmate's genital status.
10. If the genital status is unknown, it may be determined during conversations with the inmate, reviewing medical records, or as part of a broader medical examination conducted in private by medical personnel.
11. If a cross-gender pat-down search is required, the supervisor will ensure that a same gender security deputy conducts the pat-down search.
12. The Hampton Sheriff's Office will not hire or promote anyone or enlist the services of any contractor, who may have contact with inmates, that
  - a. have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution
  - b. have been convicted of engaging or attempting to engage in sexual activity by overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse
  - c. have been civilly or administratively adjudicated to have engaged in sexual activity

C. Reporting – (Response) **4-ALDF-2A-29, 4-ALDF-4D-22-2 and 4-ALDF-4D-22-7**

1. The Hampton Sheriff's Office does not detain inmates solely for civil immigration purposes. However, consular notification is the responsibility of the arresting officer, as the deputy is to ensure notification has been made during the intake or detention process.
2. All staff is required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment, retaliation against inmates or staff, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation that occurs in the Hampton Sheriff's Office or any other facility to a security officer or a



supervisor. When the inmate is subject to a substantial risk of imminent sexual abuse, the staff shall take immediate action to protect the inmate.

3. If the alleged victim is under the age of 18 or considered a vulnerable adult in accordance to the definition of a vulnerable adult under State of Virginia Code, §8.1-227.24, the HSO will report allegation to the designated state or local services agency under applicable mandatory reporting laws.
4. Staff is not to reveal any information related to a sexual abuse report to anyone except designated supervisors and officials who are responsible for treatment, investigation, and other security and management decisions.
5. Medical and mental health staff will be required to report sexual abuse and required to inform inmates of staff's duty to report, and the limitations of confidentiality.
6. The first Security staff to respond following a report of an alleged inmate sexual abuse will:
  - a. separate the alleged victim and abuser
  - b. preserve and protect any alleged crime scene by securing the immediate area to ensure nothing is disturbed, until the collection of evidence is conducted and completed by the Hampton Police Division
  - c. request that the alleged abuser or alleged victim not destroy physical evidence such as: washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating
7. If a security staff member, is not the first to respond, the responder will request the alleged victim to not take any action that could destroy physical evidence, and then immediately notify Security staff.
8. Information reported by a third- party concerning an alleged sexual abuse or sexual harassment will be forwarded to the Director of Correction or his designee to investigate. Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, will be permitted to assist inmates in filing requests of administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of

inmates. If the inmate declines to have third-party assistance in filing a grievance alleging sexual abuse, the decision to decline shall be documented.

9. The Hampton Sheriff's Office PREA policy will be posted on the department website.
10. The Hampton Sheriff's Office inmates can privately report sexual abuse, sexual harassment, retaliation by other inmates or staff, and staff neglect by using the following:
  - a. *Inmate Correspondence Forms*
  - b. *Grievance Forms*
  - c. Verbal Report
  - d. Sexual Abuse Hotline (noted in inmate handbook)
  - e. Third-Party Reporting
11. The Hampton Sheriff's Office staff can privately report sexual abuse and sexual harassment of inmates to their Supervisor or any other facility Supervisor.
12. Any verbal reports will be immediately documented by the staff member receiving the information and forwarded to the PREA Compliance Manager by the end of duty or to the Facility Manager in the absence of the PREA Compliance Manager.
13. If the Hampton Sheriff's Office receives an allegation that an inmate was sexually abused, while confined at another facility, the Sheriff or his designee will notify the agency head, where the alleged abuse occurred within 72 hours. The notification will be documented. Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization, that did not occur in an institutional setting, unless the inmate is under the age of 18.
14. An inmate who makes an allegation that he or she suffered sexual abuse while in the facility will be informed verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded, following an investigation by the agency. The Hampton Sheriff's Office should



request the relevant information, if the investigation was not conducted by the agency.

15. Following an inmate's allegation that a staff member committed sexual abuse against the inmate, the Hampton Sheriff's Office will inform the inmate (unless the HSO has determined the allegation is unfounded) whenever:
  - a. the staff member is no longer posted within the inmate's housing unit
  - b. the staff member is no longer employed at the Hampton Sheriff's Office
  - c. the Hampton Sheriff's Office learns that the staff member has been indicted on a charge related to sexual abuse within the jail
  - d. the Hampton Sheriff's Office learns that the staff member has been convicted on a charge related to sexual abuse within the facility
16. When an inmate makes an allegation that he or she has been sexually abused by another inmate who is incarcerated at the Hampton Sheriff's Office, subsequently, the inmate is informed of the alleged victim whenever:
  - a. the Hampton Sheriff's Office learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - b. the Hampton Sheriff's Office learns that the alleged abuser has been convicted; or
  - c. the Hampton Sheriff's Office learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility

All such notifications or attempted notification shall be documented. If the inmate is released from the Hampton Sheriff's Office, the obligation to report is terminated in accordance with PREA standard 115.73. **4-ALDF-4D-22-2**

17. After the report of sexual abuse, the Retaliation Officer or in the absence of the Retaliation Officer, the PREA Coordinator will monitor the conduct and treatment of inmates. All allegations of sexual abuse and sexual harassment including third-party and anonymous reports will be reported to the designated PREA investigators. The Hampton Sheriff's Office protection against retaliation consists of, but is not limited to:

- a. The Hampton Sheriff's Office has a policy to protect all inmates and staff reporting sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigation from retaliation by other inmates or staff, and the Retaliation Officer will monitor retaliation.
  - b. The Hampton Sheriff's Office has employed protective measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
  - c. For at least 90 days following a report of sexual abuse, the Hampton Sheriff's Office will monitor the conduct and treatment of inmates and staff who reported the inmate sexual abuse and who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. The Hampton Sheriff's Office will continue such monitoring beyond 90 days, if the initial monitoring indicates a continuing need.
  - d. In the case of inmates, such monitoring shall also include periodic status checks.
  - e. If any other individual who cooperates with an investigation expresses a fear of retaliation, the Hampton Sheriff's Office will take appropriate measures to protect individuals against retaliation.
  - f. Any use of segregated housing to protect an inmate, alleged to have suffered sexual abuse, shall be subject to the requirements identified in the Screening Risk section (G) of this policy.
  - g. The agency protection against retaliation obligation to monitor shall terminate, if the agency determines that the allegation is unfounded.
18. The Hampton Sheriff's Office will not impose a time limit when an inmate can submit a grievance, regarding sexual abuse allegations.
19. The Hampton Sheriff's Office shall not require inmates to use an informal grievance process or attempt to resolve with staff, an alleged incident of sexual abuse.



20. An inmate will not be required to submit a grievance to a staff member who is the subject of the complaint.
21. The Hampton Sheriff's Office will not refer a grievance to a staff member who is the subject of the complaint.
22. The Hampton Sheriff's Office will issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing.
23. The Hampton Sheriff's Office, Undersheriff may grant an extension of time to respond, up to 70 days, if the normal time period for response is insufficient to make an appropriate decision.
24. The inmate will be notified in writing of any extension and provided a date by which a decision will be made. If at any level of the administrative process, including the final level, the inmate does not receive a response within the allotted time for reply, including proper notice, or extension, the inmate may consider the absence of a response to be a denial at that level.
25. Fellow inmates, staff members, family members, attorneys, and outside advocates will be permitted to assist inmates in filing requests for administrative remedies relating to sexual abuse allegations.
26. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency will immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken and provided an initial response within 48 hours, and shall be issued a final agency decision within 5 calendar days. The initial response and final agency decision documents the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

27. The initial response and final agency decision documents the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

D. Criminal Background

1. A criminal background records check will be conducted before hiring new employees or enlisting services from volunteers or contractors, who may have contact with inmates.
2. The Hampton Sheriff's Office shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.
3. All applicants and employees, who may have contact with inmates, will be asked directly about previous misconduct in all written applications, interviews for hiring or promotion, or during written evaluations.
4. Employees must disclose any such misconduct. Any material omission or false information regarding misconduct will be grounds for termination.
5. The Hampton Sheriff's Office will provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work unless prohibited by law.
6. The Hampton Sheriff's Office Human Resources Coordinator will conduct background record checks of current employees, at five year intervals when applicable.

E. Training and Education

1. The Training Supervisor will ensure that all Hampton Sheriff's Office employees, who have contact with inmates, will be trained on the following:
  - a. the agency's zero-tolerance policy for sexual abuse and sexual harassment
  - b. how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures



- c. the right of inmates to be free from sexual abuse and sexual harassment
  - d. the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment
  - e. the dynamics of sexual abuse and sexual harassment in confinement
  - f. the common reactions of sexual abuse and sexual harassment victims
  - g. how to detect and respond to signs of threatened and actual sexual abuse
  - h. how to avoid inappropriate relationships with inmates
  - i. how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender- non-conforming inmates
  - j. how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities
  - k. cross-gender pat-down search training will be conducted for all new employees during initial FTO training
- 2. All current employees will be initially trained in the PREA standards and refresher training will be provided to employees every two years thereafter.
  - 3. All volunteers and contractors, who have contact with inmates, will be trained on their responsibilities under the department's PREA Policy. The level and type of training provided for the volunteers and contractors is based on the services they provide and the level of contact they have with inmates, but all volunteers and contractors who have contact with inmates are notified of the department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents. The Hampton Sheriff's Office Training Unit maintains documentation showing volunteers, contractors and HSO employees' signatures verifying they understand the training and materials they have received.

F. Inmate Education

- 1. All inmate education materials will be in formats accessible to all inmates in accordance with Title II of the Americans with Disabilities Act U.S.C. formats

include, but not limited to: interpreters for the deaf or hearing impaired, reading the material to the visually impaired, and providing interpreters services for Non-English speaking inmates. Inmates are prohibited from being used as interpreters, readers or other types of inmate assistance except in limited circumstances. All inmates receive PREA orientation during the intake process and PREA training within 30 days of intake.

2. Information will be continuously and readily available or visible to inmates through posters, inmate handbooks, video presentation or other written formats. At the designated time, a deputy will turn the inmate televisions to channel 1960 for the PREA video presentation. Upon completion, the television can be changed to normal viewing. The deputy will document on the Floor/Pod Activity log, "The PREA video is being played."
3. All sexual abuse investigators, who conduct investigations in a confinement setting, will be received specialized training in the following techniques:
  - a. interviewing sexual abuse victims
  - b. proper use of the Miranda Warning
  - c. proper use of the Garrity Warning
  - d. sexual abuse evidence collection in confinement settings
  - e. the criteria and evidence required to substantiate a case for administrative action or prosecution referral
4. The Training Coordinator will maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.
5. All full and part-time medical and mental health care practitioners working regularly in the Jail will be trained in the following:
  - a. how to detect and assess signs of sexual abuse and sexual harassment
  - b. how to preserve physical evidence of sexual abuse



- c. how to respond effectively and professionally to victims of sexual abuse and sexual harassment
  - d. how and to whom to report allegations or suspicions of sexual abuse and sexual harassment
6. The Hampton Sheriff's Office medical staff will not conduct forensic examinations. **4-ALDF-4D-22-6**

G. Screening Risk

- 1. All inmates will be screened during Intake using the Hampton Sheriff's Office Intake screening form for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.
- 2. The Intake screening process will take place during the booking process but no later than 72 hours of arrival at the facility and with a reassessment of the inmate no later than 15 days from the inmate's arrival to the jail. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive.
- 3. Within a set period of time, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional relevant information received by the facility since the intake screening.
- 4. Responses to questions asked pursuant to inmates who are at risk of victimization or abusiveness shall be controlled by using the Hampton Sheriff's Office Institutional Plan. The plan is to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.
- 5. The intake screening will consider at the minimum the following:
  - a. Whether the inmate has a mental, physical, or developmental disability
  - b. Age of the inmate
  - c. Physical build of the inmate

- d. If the inmate has previously been incarcerated
  - e. If the inmate's criminal history is exclusively nonviolent
  - f. If the inmate has prior convictions for sex offenses against an adult or child
  - g. If the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming
  - h. If the inmate has previously experienced sexual victimization
  - i. The inmate's own perception of vulnerability
  - j. If the inmate is detained solely for civil immigration purposes
- 6. Inmates will not be disciplined for refusing to answer, or for not disclosing complete information in response to the risk screening. Inmate information is controlled to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.
  - 7. Information from the risk screening will be used to determine housing, bed, work, education, and program assignments to prevent inmates with the high risk for being sexually victimized from those at the risk of being sexually abusive. The Hampton Sheriff's Office Policy # 405 explains the process of classifying inmates in its entirety.
  - 8. Transgender and Intersex inmates will be assigned to male or female blocks on a case by case basis and based on the health and safety of the inmate and the security needs of the Jail.
  - 9. A transgender and intersex inmate's own views with respect to their own safety will be given serious consideration.
  - 10. Transgender and Intersex inmate placements will be reassessed at least every two (2) years to review any threats to the safety of the inmate.
  - 11. Transgender and Intersex inmates will be given the opportunity to shower separately from other inmates.



12. Lesbian, gay, bisexual, transgender, or intersex inmates will not be placed in dedicated blocks based solely on their identification or status unless in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmate.
13. Inmates at high risk of sexual victimization will not be placed in involuntary segregated housing unless other alternatives are not available.
14. Inmates placed in segregated housing will have access to programs, privileges, education, and work opportunities to the extent possible.
15. Inmates in segregated housing will be reviewed at least every 30 days to determine whether there is a continuing need for separation from the general population.

H. Medical and Mental Care **4-ALDF-2A-29**

1. If the intake screening indicates that an inmate has experienced prior sexual victimization in an institutional setting or in the community, the inmate will be offered a follow-up meeting with medical or mental health within 14 days.
2. All information related to sexual victimization and abusiveness that occurred in an institutional setting will be strictly limited to medical, mental health, and other staff on a need to know basis.
3. Medical and mental health personnel will obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.
4. All inmate victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services.
5. All inmate victims of sexual abuse while at the Hampton Sheriff's Office will be offered information and access to emergency contraception and sexually transmitted infection prophylaxis in accordance with professionally accepted standards of care, where medically appropriate. **4-ALDF-4D-22-6**
6. The Hampton Sheriff's Office will offer medical and mental health evaluation and treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. **4-ALDF-4D-22-6**

7. The evaluation and treatment of such victims will include: **4-ALDF-4D-22-6**
  - a. follow-up services
  - b. treatment plans
  - c. referrals for continued care following their transfer or release
8. The Hampton Police Division Investigative Unit will follow a uniform evidence protocol for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
9. The Hampton Police Division Investigative Unit's evidence protocol will be based on the most recent edition of the U.S. Department of Justice's Office on Violence against Women publications or a National Protocol for Sexual Assault Medical Forensic Examination, Adults/Adolescents.
10. The treatment services (forensic examination) will be performed by Sexual Assault Forensic Examiners (SAFE) or Sexual Assault Nurse Examiners (SANE) at a local hospital without a financial cost to the victim.
11. If the Hampton Sheriff's Office has no qualified medical or mental health practitioners on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to §115.62 and shall immediately notify the appropriate medical and mental health practitioners.
12. The Hampton Sheriff's Office will attempt to make available to the victim an advocate from a rape crisis center to accompany and support the victim through the forensic medical examination process, investigatory interviews and for emotional support, crisis intervention information, and referrals.
13. Inmate victims of sexual abusive vaginal penetration while at the Hampton City Jail will be offered a pregnancy test.
14. Inmate victims who become pregnant while at the Hampton City Jail will receive comprehensive information about all lawful pregnancy-related medical services.
15. Inmate victims of sexual abuse while at the Hampton city Jail will be offered tests for sexually transmitted infections as medically appropriate.



16. All treatment services for sexual abuse will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with the investigation arising out of the incident.
17. Inmates will be provided access to an outside advocacy group through the use of a mailing address and hotline number (1-800-656-4673) for outside emotional support services related to sexual abuse.
18. Inmates are allowed reasonable communication with an outside advocacy group in a confidential manner as possible.
19. The Hampton City Jail will inform the inmates that communication with outside advocacy groups will be monitored and reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

#### I. Investigations

1. All investigations into allegations of sexual abuse and sexual harassment will be done promptly, thoroughly, and objectively.
2. Investigators with special training in sexual abuse investigations will be used when sexual abuse is alleged.
3. Hampton Police Investigation Division will be responsible to gather and preserve direct and circumstantial evidence and available physical and DNA evidence.
4. Investigators will interview alleged victims, suspected perpetrators, and witnesses and will review prior complaints and reports of sexual abuse involving the suspected perpetrator.
5. Evidence which appears to support criminal prosecution, the Hampton Police Department will conduct the interview.
6. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as an inmate or staff.

7. The inmate who has alleged that he or she was sexually abused will not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of alleged allegation.
8. Administrative investigators will conduct an investigation to ensure that staff actions or failure to act did not contribute to the abuse.
9. A written report on all administrative and criminal investigations shall include:
  - a. description of the physical and testimonial evidence
  - b. the reasoning behind credibility assessments
  - c. investigative facts and findings
10. Any substantiated allegations of sexual conduct that appear criminal will be referred for prosecution to the Hampton Police Division or appropriate law enforcement agency.
11. All written reports of administrative and criminal investigations will be retained by the Hampton Sheriff's Office as long as the alleged abuser is incarcerated or is employed by the Hampton Sheriff's Office, plus five years.
12. An investigation will not be terminated just because the alleged abuser or victim is no longer employed or incarcerated by the Hampton Sheriff's Office.
13. The Hampton Sheriff's Office will cooperate with outside investigators and will remain informed about the progress of the investigation.
14. The Hampton Sheriff's Office will not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
15. Following an investigation into allegations of sexual abuse or sexual harassment, the inmate will be informed in writing whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
16. Following an inmate's allegation that another inmate has sexually abused him/her, the alleged victim will be informed whenever:



- a. the agency learns that the alleged abuser has been indicted on charges related to sexual abuse within the facility
  - b. the agency learns that the alleged abuser has been convicted on a charges related to sexual abuse within the facility
17. All notifications or attempted notifications will be documented.
18. The agency's obligation to report shall be terminated upon the inmate's release from the agency custody.

J. Discipline

- 1. The HSO staff will be subject to disciplinary sanctions up to and including termination for violating the sexual abuse and sexual harassment policy.
- 2. Other disciplinary sanctions for violating the sexual abuse or sexual harassment policy that does not include actually engaging in sexual abuse will be based on the following:
  - a. the nature and circumstances of the acts committed
  - b. the staff member's disciplinary history
  - c. the sanctions imposed for similar offenses by other staff with similar histories
- 3. All termination or resignations for violations of the agency's sexual abuse or sexual harassment policy will be reported to the Hampton Police Division of the offense, if determined to be criminal. All termination for violations of agency sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated, if not for the resignation, shall be reported to the Hampton Police Division, if determined to be criminal. **4-ALDF-4D-22-5**
- 4. Any contractor or volunteer who engages in sexual abuse will be prohibited from contact with inmates and will be reported to the Hampton Police Division unless the act was determined to be non-criminal, and to relevant licensing bodies. **4-ALDF-4D-22-5**

5. In case of any other violation of agency sexual abuse or sexual harassment policy by contractor or volunteer, the agency will consider whether to prohibit further contact with inmates.
6. Inmates will be subject to disciplinary sanctions through a formal disciplinary process following:
  - a. an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse
  - b. following a criminal finding of guilt for inmate-on-inmate sexual abuse
7. Inmate disciplinary sanctions will take in consideration the following
  - a. the nature and circumstances of the abuse committed
  - b. the inmate's disciplinary history
  - c. the sanctions imposed for similar offenses by other inmates with similar histories
  - d. inmate's mental disabilities or mental illness
8. The Hampton Sheriff's Office will discipline an inmate and staff personnel for sexual contact with staff upon a finding that the staff member did or did not consent to such contact.
9. An inmates' report of sexual abuse made in good faith and based on reasonable belief will not be disciplined for falsely reporting an incident or lying, even if the investigation does not establish evidence sufficient to substantiate the allegation.
10. The Hampton Sheriff's Office prohibits all sexual acts between inmates and will discipline inmates for any such acts.
11. The act will not be deemed sexual abuse if it was not coerced.



K. Data Collection and Review

1. A sexual abuse incident review will be conducted by the Hampton Sheriff's Office Incident Review Team within 30 days after the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded.
2. The review team will consist of upper-level management officials, supervisors, investigators, and medical/mental health personnel.
3. The review team will review data collected, and aggregated, in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
  - a. a need to change policy or practice to better prevent, detect, or respond to sexual abuse and identify problem areas
  - b. if the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, perceived status, gang affiliation
  - c. taking corrective action when needed
  - d. the adequacy of staffing levels in that area during different shifts
  - e. whether monitoring technology should be deployed or augmented to supplement supervision by staff
  - f. examine the area at the facility (Jail, Annex, Lock-Up ) where the incident occurred to assess whether physical barriers in the area may enable abuse
  - g. The review team will prepare a report of findings, determinations, and any recommendations for improvement as well as the agency on a whole and submit the report to the Sheriff or his designee and the PREA Coordinator. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

- h. The Hampton Sheriff's Office will implement the review team's recommendations for improvements, or will document the reasons for not doing so.
- 4. The Hampton Sheriff's Office will collect annually accurate, uniform data for every allegation of sexual abuse necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
- 5. The HSO shall maintain, review and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- 6. The HSO shall aggregate the incident-based sexual abuse data, at least annually.
- 7. Upon request, data from the previous calendar year will be provided to the Department of Justice no later than June 30.
- 8. The report will be made readily available to the public through the Department website excluding all personal identifiers after final approval by the Sheriff or his designee. All personal identifiers will be removed before data is publicly available.
- 9. The Hampton Sheriff's Office will ensure all data collected is securely retained by the PREA Coordinator for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise. **4-ALDF-4D-22-8**

L. Upgraded to facilities and technologies

The Hampton Sheriff's Office will consider the facilities' ability to protect inmates from sexual abuse during any planned expansions, modifications, or video equipment updates.

M. Response to an incident of sexual abuse/assault/harassment

1. Volunteer/Contractor

- a. If the first person to receive a report of sexual abuse, assault or harassment is a volunteer or contractor, he or she will report the incident to the nearest security staff.



- b. The volunteer/contractor will advise the inmate:
  - i. not to shower or clean themselves in any way
  - ii. not to use the restroom
  - iii. not to eat or drink anything
  - iv. not to brush their teeth
  - v. not to change clothes
  - vi. not to do anything which may destroy evidence of the assault
- c. The volunteer/contractor will write a report on any information provided to them verbally.

2. Security Staff

The first security staff member to respond to the report will be required to:

- a. separate the alleged victim and abuser **4-ALDF-4D-22-6**
  - i. Any security staff receiving information regarding an incident of sexual abuse, assault or harassment will immediately notify their supervisor.
  - ii. Security staff will attempt to identify the alleged abuser and separate the alleged abuser from the alleged victim and place the alleged abuser in a secure area.
  - iii. Take the alleged victim to medical for examination
  - iv. Upon completion of medical examination, place the alleged victim in a secure area away from the alleged abuser.
  - v. Ensure that an inmate movement report is completed while stating that the movement was due to a PREA incident. No other information will be provided.
- b. preserve and protect the crime scene until appropriate steps can be taken to collect any evidence

- i. If the incident took place in the individual cell, secure the cell to protect the crime scene.
- ii. If the incident took place in the cell block (dayroom area) or pod area, remove all inmates and secure the cell block/pod area to protect the crime scene.
- c. If the alleged abuse occurred within a time period that allows for collection of physical evidence, request that the alleged victim not take any action that could destroy physical evidence such as:
  - i. not to shower or clean themselves in any way
  - ii. not to use the restroom
  - iii. not to eat or drink anything
  - iv. not to brush their teeth
  - v. not to change clothes
  - vi. not to do anything which may destroy evidence of the assault
- d. If the abuse occurred within a time period that allows for collection of physical evidence, request that the **alleged abuser** not take any action that could destroy physical evidence such as:
  - i. not to shower or clean themselves in any way
  - ii. not to use the restroom
  - iii. not to eat or drink anything
  - iv. not to brush their teeth
  - v. not to change clothes
  - vi. not to do anything which may destroy evidence of the assault

Remember to stay focused on the safety and well-being of the inmate.



If the first responder is not a security staff member, that responder will be required to:

- a. request that the **alleged victim** not take any action that could destroy physical evidence
- b. notify security staff

The first responder will complete an *Incident Report*, providing general overview of the incident (who, what, when, where, how)

- a. All information in the *Incident Report* will remain confidential.
- b. The *Incident Report* will remain with the first respondent and given to the PREA Compliance Manager. In the absence of the PCM, the report will be given to the Deputy of Professional Standards.

### 3. Medical and Mental Health Practitioner

- a. The Hampton Sheriff's Office medical personnel will evaluate and, as appropriate, provide treatment to all inmates who allege having been a victim of sexual abuse.
- b. Medical personnel, upon completion of the evaluation, document the timeliness of emergency medical treatment and crisis intervention services that were provided.
- c. The Hampton Sheriff's Office medical staff will not collect forensics information.
- d. The Hampton Sheriff's Office medical staff will file documented examinations in the inmate's health record.
- e. The Hampton Sheriff's Office medical staff will offer a timely and comprehensive pregnancy test to all female victims of sexual abuse.
- f. The Hampton Sheriff's Office medical staff will offer a test for sexually transmitted infections as medically appropriate.

#### 4. PREA Compliance Managers

The PREA Compliance Manager for each facility will work at the facility level and will coordinate with the Accreditation Manager and the PREA Coordinator to ensure the implementation of the PREA standard for their facility by:

- a. collecting and reviewing all required documentation, ensuring that the documentation comply standards for your assigned facility
- b. forwarding documentation to the Accreditation Manager upon completion of the review
- c. communicating with the Accreditation Manager on any issues with complying with PREA standards

#### 5. PREA Facility Managers

- a. The role of the PREA Facility Manager is to work at the facility-level to ensure implementation of policies, and all PREA standards are met at all facilities.
- b. The PREA Facility Manager is to communicate and report any and all PREA allegations. Keep all collected information confidential and forward to the PREA Compliance Manager.
- c. Identify any issues with complying with PREA standards.
- d. Ensure that all reports are forwarded to the PREA Compliance Manager.
- e. Look for possible retaliation and report any detection to the PREA Compliance Manager.
- f. In the absence of the PREA Compliance Manager, forward all documentation to the PREA Coordinator.